

Bill 40 Testimony

MISC. COM. 261

From: CLK Council Info
Sent: Monday, May 18, 2020 10:34 PM
Subject: Council/Public Hearing Speaker Registration/Testimony

Speaker Registration/Testimony

Name	Jon M. Young
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Meeting Date	05-20-2020
Council/PH Committee	Council
Agenda Item	Bill 40
Your position on the matter	Oppose
Representing	Organization
Organization	Hawaii Asphalt Paving Industry
Do you wish to speak at the hearing?	No
Written Testimony	
Testimony Attachment	
Accept Terms and Agreement	1

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GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

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TO: HONORABLE COUNCIL CHAIR ANDERSON AND MEMBERS OF THE
HONOLULU CITY COUNCIL

SUBJECT: TESTIMONY IN OPPOSITION TO BILL 40 - RELATING TO COMMUNITY
WORKFORCE AGREEMENTS

Hearing

DATE: Wednesday, May 20, 2020
TIME: 11:00 A.M.
PLACE: Council Meeting Room
Honolulu Hale

Dear Council Chair Anderson and members of the City and County of Honolulu Council:

The General Contractors Association of Hawaii (GCA) is an organization comprised of over five hundred general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. The mission of the GCA is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest.

Thank you for the opportunity to share our **opposition** to Bill 40 which seeks to amend Bill 37 which requires the City and County of Honolulu to negotiate a Community Workforce Agreement (CWA) for larger public works projects.

While we deeply appreciate the efforts of members of the City Council to amend Bill 37 which mandated CWAs, we do believe that the amendments proposed in Bill 40 only strengthen that effort, that this is an inappropriate role for the City to play and that this is an inappropriate time, given the current health and economic crisis that the City faces, to move forward with Bill 40. **We suggest that a better approach would be to re-peal Bill 37 altogether.**

Opposition:

GCA member firms provide the highest quality services to public and private sector clients in the commercial and public building, highway, heavy industrial and municipal utility construction markets, as well as in international markets. GCA represents equally construction firms that operate with collective bargaining agreements and those that operate on an "open shop" basis.

As GCA proudly counts among its members both unionized and non-union general contractors and subcontractors, it is our duty to share with the council that both our union and non-unionized members alike oppose mandating CWAs or any similar type of restriction on public projects.

Open competition:

GCA is committed to free and open competition in all public construction markets and believes that publicly-funded contracts should be awarded without regard to the lawful labor relations

policies and practices of the government contractor. GCA is committed to full and open competition for all public projects and is in support of the well-established principle that taxpayer-financed construction must be open to all qualified firms regardless of their labor policy.

CWAs restrict choice:

CWAs effectively compel both union and open shop contractors to alter their hiring practices, work rules, job assignments, and benefits in order to compete for or to perform work on publicly funded projects thus limiting the number of qualified firms that can bid for tax-payer funded construction projects.

Our members strongly believe that the choice of whether to adopt a collective bargaining agreement should be left to the contractor-employers and their employees, and that such a choice should not be imposed as a condition to competing for, or performing on, a publicly funded project.

Moreover, government mandates and preferences for CWAs can drive up costs, cause delays, lead to jobsite disputes and disrupt local collective bargaining. In cases where use of a CWA would benefit a particular project, the construction contractors otherwise qualified to perform the work would be the first to recognize that fact and to adopt a CWA voluntarily. They would also be the most qualified to negotiate the terms of such an agreement.

No evidence of the performance benefits of CWAs:

There is no reliable evidence that CWAs improve performance or have a significant impact in promoting high-quality construction. While case studies of the economic benefits of CWAs have had varying conclusions, the Government Accounting Office recently reported that it could not document the alleged benefits of past mandates for CWAs on federal projects and that it doubted such benefits could ever be documented due to the difficulty of finding projects similar enough to compare and the difficulty of conclusively demonstrating that performance differences were due to the CWA versus other factors.

Inappropriate role for the City and County of Honolulu to play:

Should Bill 40 move forward, it will be forcing union representation on all construction employees working on the public project regardless of their wishes. This has never been a legitimate or proper role for a public entity. CWAs violate the well-established principle that public entities have no business in determining the labor policies of private contractors.

Inappropriate time to address:

Given the immense health and economic crisis the City is experiencing, we believe that this is a time for the City to work with the entire construction industry to streamline processes such as entitlement and permitting, and focus on initiatives that could potentially spur greater construction activity, rather than impede it.

GCA opposes Bill 40.

Thank you for the opportunity to share our opposition.



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May 20, 2020

Honolulu City Council
Hon. Ikaika Anderson, Chair
Hon. Ann Kobayashi, Vice Chair

Testimony in **STRONG OPPOSITION** re Bill 40
(2020): Relating to Community Workforce
Agreements

Chair Anderson, Vice Chair Kobayashi and
members of the committee:

My name is Malcolm Barcarse, Jr. I am the
Chair of the Legislative Committee for Associated
Builders and Contractors Hawaii Chapter, an
organization of over 150 members that provide
State of Hawaii approved apprenticeship training
for non-union companies that comprise over two-
thirds of the Construction industry in Hawaii.

At a time of a global pandemic, which has
forced the City to implement a stay at home, work
at home order, the consequences of which includes,
a situation where one out of every three workers
have lost their job, thousands of people who have
not gotten a paycheck in over two months sitting in
traffic for 4 hours to get food, it is unconscionable
that the City Council would consider rehashing a
bill that would shut out two-thirds of the
construction industry from many of the
Construction projects in the City and County of
Honolulu, which is absolutely critical to
resurrecting the local economy. Furthermore,
limiting competition in State procurement through
this bill will results in higher bids for City projects
which is the last thing the City needs as it will likely
face the most significant fiscal challenge in the
history of the City and County of Honolulu in the
months and years ahead.

Last year another version of this bill (Bill 37
of 2019) was allowed to pass and become law
without the Mayor's signature or the Corporation
Counsel's approval, due to legal concerns and the
impact that it would have on non union contractors.



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America's Best Contractors

The legal concerns have not changed as a result of this new bill. Regulation of and changes to the procurement code HRS 103D is an area of law that is fully occupied by the State. See Richardson vs City and County of Honolulu 76 Haw 46, 868 P.2d 1193 (1994.) The City has no authority to pass a regulation like this. These are procurement laws that are promulgated by the State not the City. It is especially disturbing that a revision of a controversial bill like this would be rushed through at a time where public access to the council is limited, and is also being enacted with out one single committee hearing.

During this pandemic, the messaging we have heard from the City is that we are One Oahu. The problem with that is, that bills like this only divide the Construction Industry and the many businesses and workers that rely on it for their livelihoods. If we are truly "One Oahu," we need to focus on supporting ALL of the construction industry, and not pick winners and losers at a time when most of the stakeholders are concerned about preserving their businesses and livelihoods.

Due to the harm that this bill will cause to local companies such as our members and to the City we ask that this bill be HELD and eventually that Bill 37 of 2019 be repealed. Thank you for the opportunity to testify.